



Reply to
Attention of:

DEPARTMENT OF THE ARMY
SOUTHWESTERN DIVISION, CORPS OF ENGINEERS
1100 COMMERCE STREET
DALLAS TX 75242-0216

March 4, 2004

Civil Works and Management Directorate

Mr. John P. Thobe
PO Box 3260
South Padre Island, TX 78597

Dear Mr. Thobe:

This is in response to your January 30, 2004, Request for Appeal (RFA) on behalf of Mr. Richard Friedrichs. Your appeal pertains to a determination completed by the Galveston District (Corps file number 22902).

Your RFA has been reviewed and determined not to meet the criteria to be accepted for appeal for the following reason. The determination issued by the Galveston District on January 26, 2004 was a determination that a Corps permit is required for the construction of a pile supported parking area. In accordance with the Administrative Appeal Regulations, this is not an appealable action.

Appealable actions are: (1) Approved JD that states the presence or absence of waters of the United States on a parcel or a map identifying the limits of water of the United States on a parcel; (2) a declined permit is a proffered individual permit that an applicant has refused to accept because he has objections to the terms and special conditions and (3) a permit denial with prejudice. Permit denials without prejudice or a declined permit, where the Corps cannot change the controlling factor (e.g., disapproval of water quality certification or coastal zone management certification) are not appealable.

If you have any questions concerning your appeal request, please contact Mr. James E. Gilmore. You can contact him at (214) 767-2457, by writing to the above address, or by e-mail to James.E.Gilmore@swd.usace.army.mil. A Copy of this letter has been sent to Mr. Dolan Dunn, Chief of the Regulatory Branch.

Sincerely,

Robert Crear
Brigadier General, US Army
Commanding General